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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,497

03/09/2006

John Wesley Stamp

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EXAMINER

SMITH, JENNIFER A

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

08/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,497	Applicant(s) STAMP, JOHN WESLEY	
	Examiner JENNIFER A. SMITH	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/27/2005, 04/29/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Application

Claims 1-16 are pending and presented for examination.

Priority

Receipt is acknowledged of foreign priority papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statements

The information disclosure statements (IDS) submitted on 03/27/2005 and 04/29/2005 are in compliance with the provisions of 37 CFR 1.97 and have been considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 8-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stamp (AU Patent No. 712824).

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In regard to claim 1, Stamp teaches a process of preparing a growth medium/fertilizer using coconut fibers [See Examples]. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. The preamble “for treating palm waste” is interpreted to include use as a fertilizer/growth material. In Example 1, Stamp discloses mixing sedge peat, sugarcane mill mud (plant mill effluent), and possibly coconut fiber or coco peat. The fiber may be shredded coconut coir [See Page 4, lines 1-10].

In regard to claim 4, the Stamp reference teaches filler material such as coconut fiber [See Page 3, line 15].

In regard to claim 8, the Stamp reference teaches the inclusion of sugarcane mill mud which includes the washing material from sugarcane mill mud in the fertilizer material [See Page 4, lines 11-14].

In regard to claims 9-10, the Stamp reference teaches the addition of non-sphagnum sedge peat in the composition of the fertilizer material [See Example 1 or Table 2].

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In regard to claim 12, a wetting agent is added to the dried effluent and fibrous material and blended with sedge peat [See Page 7, lines 2-4].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stamp (AU Patent No. 712824) in view of Prasertsan et al. (Biomass and Bioenergy, 1996).

In regard to claim 2, the Stamp reference teaches all of the limitations of claim 1 but fails to disclose the palm fibrous waste is from an oil palm waste.

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Prasertsan et al teaches the use of palm oil biomass residues as fertilizer [See Page 388, Column 2, Paragraph 2].

It would have been obvious to one of skill in the art to utilize oil palm waste like that taught in the Prasertsan reference as the palm material in the process disclosed by Stamp because is it waste product available in large quantities [See Prasertsan, Section 2] and is already in use as an effective animal feed or fertilizer [See Prasertsan, Section 3].

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stamp (AU Patent No. 712824) in view of Ezzat (DE 2459226).

In regard to claim 3, the Stamp reference teaches all of the limitations of claim 1 but fails to disclose date palm fibrous waste. Stamp teaches “non sphagnum-peat” including coconut fiber.

The Ezzat reference discloses a process for economic utilization of raw materials, ie. palm leaves and petioles, produced as waste during cultivation of date palms (*Phoenix dactylifera*) comprising using the waste as a fertilizer [See Abstract].

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It would have been obvious to one of skill in the art to utilize date palm waste like that taught in the Ezzat reference as the palm material in the process disclosed in Stamp because is it waste product available in large quantities and its use as a fertilizer is known in the art.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamp (AU Patent No. 712824) in view of Aoki et al. (US Patent No. 5,549,730).

In regard to claims 5-7, the Stamp reference teaches the process of claim 1 but fails to disclose the average size of the fibrous waste.

The Aoki reference discloses granular fertilizers may have particle diameters in the range of from 2 to 10 mm. This is within the ranges disclosed in the Aoki reference read on the instant claimed ranges.

It would have been obvious to one of skill in the art to provide the fibrous material shredded material to the process disclosed in the Stamp reference in such a size as disclosed by the Aoki reference because it is shown to be a result-effective variable (the size of the material effects the materials release time) [See Column 1, lines 20-30].

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This parameter can be set by one of skill in the art to achieve a desired release time (i.e. short or long release).

Claims 11, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamp (AU Patent No. 712824).

In regard to claim 11, Stamp teaches mixing and mixing speeds in the Examples but does not explicitly disclose the type of mixer. This limitation in apparatus in a process claim is not given patentable weight over the prior art which discloses the mixing process.

In regard to claims 13-14, Stamp teaches adding a filler (palm material) to the plant growth medium to modify porosity and/or water retention. While the Stamp reference does not disclose use of the palm fibers in a percentage identical to the instant claimed ranges, it is recognized as a result-effective variable (filler to modify porosity and water retention). IN addition the amount of filler can be varied depending upon the desired properties of the mix and this can depend on the type of plant to be grown [See Stamp, Page 6, Paragraph 1].

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In regard to claims 15-16, the Stamp reference teaches the ratio of peat to sugarcane mill mud is between 1.4:1 to 2:1 parts by weight. While the claim is drawn to a ratio in volume, Applicant's examples in the instant specification disclose the mixture of peat to mill mud is in a weight ratio of 1.57:1. Claims 15-16 have been read in light of the specification to interpret the limitations explicitly recited in the claims.

Conclusion

Claims 1-16 are rejected.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER A. SMITH whose telephone number is (571)270-3599. The examiner can normally be reached on Monday - Friday, 8:30am to 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roy King/
Supervisory Patent Examiner, Art
Unit 1793

Jennifer A. Smith
August 20, 2008
TC 1793

JS